

By: Representative Paden

To: Workforce Development;
Judiciary A

HOUSE BILL NO. 1301

1 AN ACT TO REQUIRE BUSINESSES THAT HAVE TWENTY OR MORE
 2 EMPLOYEES TO OBTAIN AN EQUAL PAY CERTIFICATE FROM THE DEPARTMENT
 3 OF FINANCE AND ADMINISTRATION BEFORE EXECUTING ANY CONTRACTS OVER
 4 \$100,000.00 WITH A DEPARTMENT OR AGENCY OF THE STATE; TO PROVIDE
 5 THE STANDARDS A BUSINESS MUST MEET BEFORE RECEIVING AN EQUAL PAY
 6 CERTIFICATE; TO PROVIDE THAT AN EQUAL PAY CERTIFICATE MAY BE
 7 SUSPENDED OR REVOKED; TO PROVIDE THAT A CONTRACT WITH A BUSINESS
 8 MAY BE VOIDED IF THE BUSINESS DOES NOT HAVE AN EQUAL PAY
 9 CERTIFICATE; TO PROVIDE FOR ADMINISTRATIVE HEARINGS IF AN EQUAL
 10 PAY CERTIFICATE IS SUSPENDED OR REVOKED OR IF A CONTRACT IS VOIDED
 11 BECAUSE A BUSINESS DOES NOT HAVE AN EQUAL PAY CERTIFICATE; AND FOR
 12 RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1. Equal pay certificate.** (1) No department or
 15 agency of the state shall execute a contract or agreement in
 16 excess of One Hundred Thousand Dollars (\$100,000.00) with a
 17 business that has twenty (20) or more full-time employees in this
 18 state or a state where the business has its primary place of
 19 business on a single day during the prior twelve (12) months,
 20 unless the business has an equal pay certificate issued under
 21 subsection (3) of this section or it has certified in writing that
 22 it is exempt. A certificate is valid for four (4) years.



23 (2) This section does not apply to a business with respect
24 to a specific contract if the Executive Director of the Department
25 of Finance and Administration determines that application of this
26 section would cause undue hardship to the contracting entity.

27 (3) A business shall apply for an equal pay certificate by
28 paying a filing fee of One Hundred Fifty Dollars (\$150.00) and
29 submitting an equal pay compliance statement to the Department of
30 Finance and Administration. The proceeds from the fees collected
31 under this section shall be deposited in an equal pay certificate
32 special revenue account in the State Treasury. The Department of
33 Finance and Administration shall issue an equal pay certificate of
34 compliance to a business that submits to the department a
35 statement signed by the chairperson of the board or chief
36 executive officer of the business:

37 (a) That the business is in compliance with Title VII
38 of the Civil Rights Act of 1964;

39 (b) That the average compensation for its female
40 employees is not consistently below the average compensation for
41 its male employees within each of the major job categories in the
42 EEO-1 employee information report for which an employee is
43 expected to perform work under the contract, taking into account
44 factors such as length of service, requirements of specific jobs,
45 experience, skill, effort, responsibility, working conditions of
46 the job, or other mitigating factors;



47 (c) That the business does not restrict employees of
48 one (1) sex to certain job classifications and makes retention and
49 promotion decisions without regard to sex;

50 (d) That wage and benefit disparities are corrected
51 when identified to ensure compliance with the laws identified in
52 paragraphs (a) and (b) of this subsection; and

53 (e) How often wages and benefits are evaluated to
54 ensure compliance with the laws identified in paragraphs (a) and
55 (b) of this subsection.

56 (4) The equal pay compliance statement shall also indicate
57 whether the business, in setting compensation and benefits, uses:

58 (a) A market pricing approach;

59 (b) State prevailing wage or union contract
60 requirements;

61 (c) A performance pay system;

62 (d) An internal analysis; or

63 (e) An alternative approach to determine what level of
64 wages and benefits to pay its employees. If the business uses an
65 alternative approach, the business must provide a description of
66 its approach.

67 (5) Receipt of the equal pay compliance statement by the
68 Department of Finance and Administration does not establish
69 compliance with the laws identified in subsection (3)(a) of this
70 section.



71 (6) The Department of Finance and Administration must issue
72 an equal pay certificate, or a statement of why the application
73 was rejected, within fifteen (15) days of receipt of the
74 application. An application may be rejected only if it does not
75 comply with the requirements of subsection (3) of this section.

76 (7) An equal pay certificate for a business may be suspended
77 or revoked by the Department of Finance and Administration when
78 the business fails to make a good-faith effort to comply with the
79 laws identified in subsection (3) of this section, fails to make a
80 good-faith effort to comply with this section, or has multiple
81 violations of this section or the laws identified in subsection
82 (3) of this section. Before suspending or revoking a certificate,
83 the Department of Finance and Administration must first have
84 sought to conciliate with the business regarding wages and
85 benefits due to employees.

86 (8) If a contract is awarded to a business that does not
87 have an equal pay certificate as required under this section, or
88 that is not in compliance with subsection (3) of this section, the
89 Department of Finance and Administration may void the contract on
90 behalf of the state. The contract award entity that is a party to
91 the agreement must be notified by the Department of Finance and
92 Administration before the Department of Finance and Administration
93 takes action to void the contract.

94 A contract may be abridged or terminated by the contract
95 award entity identified upon notice that the Department of Finance



96 and Administration has suspended or revoked the certificate of the
97 business.

98 (9) A business may obtain an administrative hearing before
99 the suspension or revocation of its certificate is effective by
100 filing a written request for hearing twenty (20) days after
101 service of notice by the Department of Finance and Administration.
102 A business may obtain an administrative hearing before the
103 contract award entity's abridgement or termination of a contract
104 is effective by filing a written request for a hearing twenty (20)
105 days after service of notice by the contract award entity.

106 (10) The Department of Finance and Administration must
107 provide technical assistance to any business that requests
108 assistance regarding this section.

109 (11) The State Auditor may audit the business's compliance
110 with this section. As part of an audit, upon request, a business
111 must provide the State Auditor the following information with
112 respect to employees expected to perform work under the contract
113 in each of the major job categories in the EEO-1 employee
114 information report:

- 115 (a) Number of male employees;
116 (b) Number of female employees;
117 (c) Average annualized salaries paid to male employees
118 and to female employees, in the manner most consistent with the
119 employer's compensation system, within each major job category;



120 (d) Information on performance payments, benefits or
121 other elements of compensation, in the manner most consistent with
122 the employer's compensation system, if requested by the State
123 Auditor as part of a determination as to whether these elements of
124 compensation are different for male and female employees;

125 (e) Average length of service for male and female
126 employees in each major job category; and

127 (f) Other information identified by the business or by
128 the Department of Finance and Administration, as needed, to
129 determine compliance.

130 (12) Data submitted to the Department of Finance and
131 Administration related to equal pay certificates is private data
132 on individuals or nonpublic data with respect to persons other
133 than department employees. The Department of Finance and
134 Administration's decision to issue, not issue, revoke or suspend
135 an equal pay certificate is public data.

136 (13) The Department of Finance and Administration shall
137 report to the Governor and the Legislature by January 31 of every
138 year, beginning January 31, 2019. The report shall indicate the
139 number of equal pay certificates issued, the number of audits
140 conducted, the processes used by contractors to ensure compliance
141 with subsection (3) of this section, and a summary of its auditing
142 efforts. The Department of Finance and Administration shall
143 consult with the Committee on the Status of Women in preparing the
144 report.



145 **SECTION 2.** This act shall take effect and be in force from
146 and after July 1, 2018.

